

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

July 25, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No: 03KD-173  
Kauai

Rescind Prior Board Action of September 26, 2003 (D-15),  
Issuance of Direct Land License to County of Kauai and Waste  
Management of Hawaii, Inc. dba Sanifill of Hawaii for Soil  
Removal Purposes, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-  
02: portion 01

BACKGROUND:

Since 1989 the County of Kauai has requested land licenses to remove dirt from silting pond in the former Kekaha Sugar Company's leased area for the purposes of using the dirt to cover material at the County's Kekaha Sanitary Landfill. The County's Kekaha Sanitary Landfill serves the entire island of Kauai. The County's current plan targets the Kekaha Sanitary landfill for closure in 2007-2008, although a new site has not been selected. Waste Management of Hawaii, Inc. dba as Sanifill of Hawaii manages the Kekaha Sanitary Landfill under contract with the County of Kauai. Land License No. S-336 was to expire on December 31, 2003.

The Land Board at its meeting of September 26, 2003, under agenda Item D-15, approved the issuance of a four (4) year land license. The Board further amended staffs recommendation by requiring the County of Kauai and Waste Management of Hawaii, Inc. to survey the mud ponds and that the mud ponds be returned to its original elevation.

The Governor on September 16, 2003 signed Executive Order 4007. Agribusiness Development Corporation (ADC) manages approximately 12,592.133 acres of State lands in Kekaha for agricultural and related purposes. This includes the subject area (silting pond covered by expired Land License S-336). Land Division transferred all of the revocable permits to ADC. It was envisioned once the land license was issued it would also be transferred to ADC to manage.

As of this writing, the County has been unable to complete the grading plan in order for Land Division to issue the new land license. County of Kauai and Waste Management of Hawaii, Inc. has continued to submit monthly royalty payments since January 1, 2004.

REMARKS:

Staff contacted Mr. Troy Tanigawa of the County of Kauai, Solid Waste Division and Mr. Alfredo Lee, Executive Director for Agribusiness Development Corporation. ADC has agreed to issue the County of Kauai and Waste Management of Hawaii, Inc. a land license. This would give ADC complete control of this area.

Agribusiness Development Corporation Board at its May 22, 2008 meeting, under Item C, has granted approval for the issuance of a land license to the County of Kauai and Waste Management of Hawaii, Inc.

Staff has no objections to transferring this tenant over to ADC effective August 1, 2008. ADC has management oversight over State lands in Kekaha via Governor's Executive Order No. 4007. ADC is responsible for payments to OHA 20% and DHHL 30%.

RECOMMENDATION: That the Board:

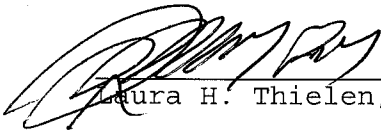
1. Rescind the prior Board action of September 26, 2003, under agenda item D-15.

Respectfully Submitted,



for Thomas Oi  
Kauai District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson



STATE OF  
DEPARTMENT OF LAND AND  
Land Div  
Honolulu, Hav

Post-it® Fax Note		7671	Date <u>9/29</u>	# of pages <u>1</u>
To <u>Tommy O.</u>	From <u>Tommy O.</u>			
Co./Dept. <u>Land - Kauai</u>	Co. <u>Land - Oahu</u>			
Phone #	Phone # <u>7-6419</u>			
Fax # <u>241-3535</u>	Fax #			

September 26, 2003

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 03KD-173

KAUAI

Issuance of Direct Land License to County of Kauai and Waste Management of Hawaii, Inc. dba Sanifill of Hawaii for Soil Removal Purposes, Kekaha, Waimea, Kauai, Tax Map Key: (4) 1-2-2:portion 1.

APPLICANT:

County of Kauai, whose mailing address is c/o Department of Public Works, 4444 Rice Street, Mo'ikeha Building, Suite 275, Lihue, Hawaii 96766 and Waste Management of Hawaii, Inc. dba Sanifill of Hawaii whose mailing address is Box 1259, Kekaha, Hawaii 96752.

LEGAL REFERENCE:

Section 171-54, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kekaha situated at Waimea, Kauai, identified by Tax Map Key: (4) 1-2-2:portion 1, as shown on the attached map labeled Exhibit A.

AREA:

50 acres, more or less.

ZONING:

State Land Use District: Agriculture  
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES x NO     

*as amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON Sept. 26, 2003

ITEM D-15

EXHIBIT "A"

BLNR - Issuance of Direct  
Land License to COK &  
Sanifill of Hawaii

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CURRENT USE STATUS:

Encumbered by Land License #S-336 issued to County of Kauai and  
Sanifill of Hawaii, Inc. to expire December 31, 2003.

CHARACTER OF USE:

Remove soil purposes.

LICENSE TERM:

Four (4) years

COMMENCEMENT DATE:

January 1, 2004

ROYALTY RENT:

\$.50 per cubic yard of material removed as stated in Land License  
#S-336.

METHOD OF PAYMENT:

Thirty (30) days following the end of the month.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's  
Environmental Impact Statement Exemption List", approved by the  
Environmental Council and dated April 28, 1986, the subject  
request is exempt from the preparation of an environmental  
assessment pursuant to Exemption Class No. 1 that states  
"operations, repairs or maintenance of existing structures,  
facilities, equipment or topographical features, involving  
negligible or no expansion or change of use beyond that  
previously existing."

DCCA VERIFICATION:

Waste Management of Hawaii, Inc. dba Sanifill of Hawaii-

Place of business registration confirmed: YES x NO     

Registered business name confirmed: YES x NO     

Applicant in good standing confirmed: YES x NO     

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for the cost of public notice  
pursuant to section 171-16, HRS.

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Land License to COK &  
Sanifill of Hawaii

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REMARKS:

Since 1989, the County of Kauai has requested a land license to remove dirt from silting ponds (silting ponds were used to capture wastewater used to wash dirt and ash from the cane before milling of the cane) located in the Kekaha Sugar Company's leased lands (General Lease #S-4222). The dirt is needed to cover material at the County's Kekaha Sanitary Landfill. The licenses have been issued: LL S-313 from Dec. 2, 1991-Dec. 31, 1992, LL S-323 from Oct. 20, 1994-Dec. 31, 1996 and Land License S-336 from Jan. 1, 1997- Dec. 31, 2003.

Staff has met with Mr. Jeffrey Kaohi of Sanifill of Hawaii and has spoken with Mr. Troy Tanigawa, Administrative Officer for the Department of Public Works, Division of Solid Waste concerning the upcoming expiration of Land License #S-336. By letter dated May 8, 2003, Ms. Wynne Ushigome, Deputy County Engineer from the Department of Public Works submitted a written request for a new land license effective January 1, 2004 to December 31, 2008, at the same royalty rate. The County's current plan targets the Kekaha Sanitary Landfill for closure in 2007-2008, although a new site has not been selected as of this writing. Sanifill of Hawaii continues to manage the Kekaha Sanitary Landfill under contract with the County of Kauai. (See Exhibit B)

Staff has no objections to charging the same royalty rate. The County's Kekaha Sanitary Landfill serves the entire island of Kauai. Currently, the Department has been leasing adjacent lands to farmers and is in the process of issuing an Executive Order to Agribusiness Development Corporation for Kekaha Land. Because of this, staff requested the County of Kauai and Sanifill of Hawaii to conduct a survey showing the State site and the 4 access roads. Furthermore, staff reviewed the files to determine the rationale for the Kauai staff implementing a threshold of 45,000 cubic yards of materials per year. The County has been at the State site since 1991 and if the supply was to be exhausted, the County and its contractor would immediately find another source and vacate the State site.

Kekaha Sugar Company had been leasing the State lands in Kekaha since October 1, 1923 under various leases (General Lease #1434, #2655, #3458 and lastly #4222) and vacated on February 28, 2001. We do not know when the silting ponds were created or how large an area they comprise. Sanifill of Hawaii and County of Kauai shall, at its sole cost and expense, restore the License Area to a condition satisfactory to the Chairperson upon termination, abandonment, or expiration of this License.

The highest and best use allowable in the county zoning is agriculture. At this time, the proposed use is in the best interest of the public because it provides soil for cover material at the County's Kekaha Sanitary Landfill.

This request qualifies for a direct license because it is in the

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Land License to COK &  
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best interest of the public. The State site provides soil for cover material to be used at the County's Kekaha Sanitary Landfill, thereby eliminating sanitation issues that can result if rubbish is left uncovered.

The Applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

A copy of this submittal was forwarded to Agribusiness Development Corporation. No agency or community comments were solicited. There are no other pertinent issues or concerns.

RECOMMENDATION: That the Board:

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Find that the public interest demands the issuance of this direct land license to the County of Kauai and Waste Management of Hawaii, Inc. dba Sanifill of Hawaii for soil removal purposes.
3. Subject to the Applicant fulfilling all of the Applicant requirements listed above, authorize the issuance of a direct land license to County of Kauai and Waste Management of Hawaii, Inc. dba Sanifill of Hawaii covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - A. The standard terms and conditions of the most current land license document form, as may be amended from time to time;
  - B. Review and approval by the Department of the Attorney General; and
  - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
  - D. Licensee shall maintain all access roads that it operates on.
  - E. Licensee shall submit a grading plan approved by the County of Kauai.

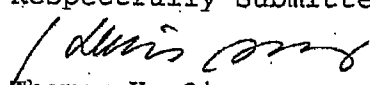
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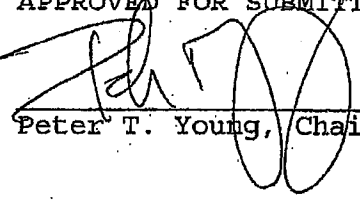
September 26, 2003

- F. Licensee shall erect temporary barriers or permanent gates to the four access roads to the site.

Respectfully Submitted,

  
Thomas H. Oi  
District Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

Approved as amended. The Board amended the Recommendation Section by:

- 1) Amending subparagraph 3.E. to read as follows:

"3.E. Licensee shall submit a grading plan approved by the County of Kauai and will survey the mudponds."

- 2) Adding a new subparagraph 3.G. to read as follows:

"3.G. The County of Kauai shall return the mud ponds to its original elevation."

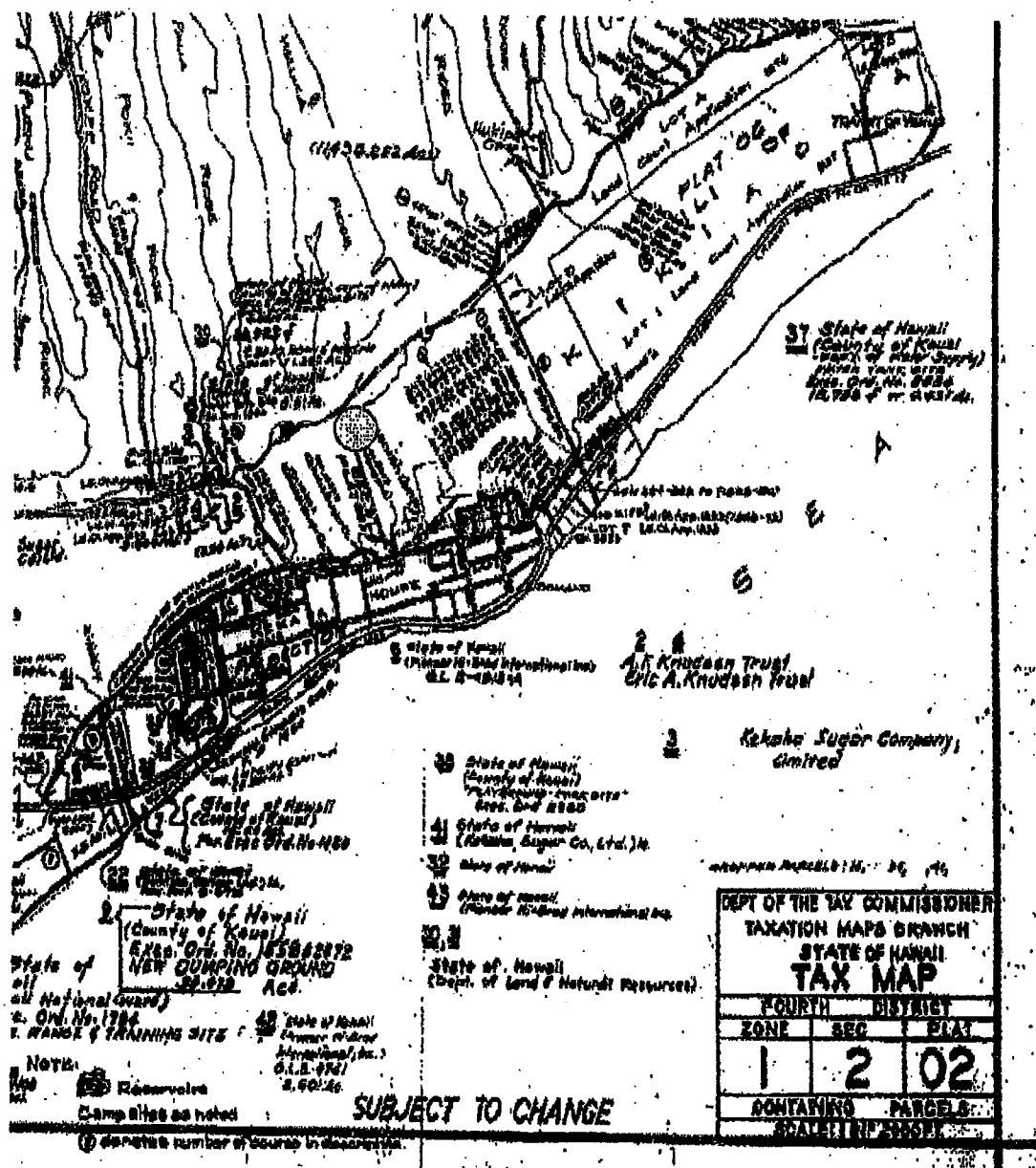


EXHIBIT A



BRYAN J. BAPTISTE  
MAYOR



COUNTY ENGINEER  
TELEPHONE 241-8800

GARY K. HEU  
ADMINISTRATIVE ASSISTANT

WYNNE M. USHIGOME  
DEPUTY COUNTY ENGINEER  
TELEPHONE 241-8840

AN EQUAL OPPORTUNITY EMPLOYER  
COUNTY OF KAUAI

DEPARTMENT OF PUBLIC WORKS  
4444 RICE STREET  
MO'IKEHA BUILDING, SUITE 275  
LIHUE, KAUAI, HAWAII 96766-1340

MAY 8, 2003

**EXHIBIT B**

Ms. Charlene E. Unoki, Acting Assistant Administrator  
Department of Land and Natural Resources (DLNR)  
State of Hawaii  
3060 Piwa Street, Room 306  
Lihue, HI 96766

RE: *Land License #S-3365 Located at Kekaha Kauai, Tax Map Key: (4) 1-2-2; portion 1*

Dear Ms. Unoki:

Thank you for your letter (dated March 19, 2003) clarifying requirements for the issuance of a new land license to excavate soil from the Kekaha mud settling ponds.

We would like to request that a new land license be issued effective January 1, 2004 to December 31, 2008, to permit the County and Sanifill of Hawaii's continued excavation of soil from the Kekaha mud settling ponds, at the same royalty rate. Our current plans target the landfill for closure in 2007-2008 and a new site has not yet been selected. Sanifill of Hawaii manages the Kekaha Landfill under contract with the County of Kauai. The County of Kauai will continue to require soil from the mud settling ponds for landfill cover material.

As the Contractor to operate the Kekaha Landfill for the County of Kauai, Sanifill of Hawaii will comply with the following if a permit to excavate landfill cover material is granted:

1. Sanifill of Hawaii will maintain all access roads that it operates on to enter and exit the mud ponds.
2. Sanifill of Hawaii will conduct a survey of the mud pond area and develop a grading plan approved by the County of Kauai.
3. Sanifill of Hawaii will erect temporary barriers or permanent gates to the four access roads to the mud ponds. It is recommended to not consider fencing of the area since irrigation ditches surround the mud ponds.

Additionally, we would like to request approval to level the mud ponds to its original elevations and to also be allowed to excavate more than 45,000 cubic yards of cover material annually.

Should you have any questions, please contact Troy Tanigawa at 241-8880.

Sincerely,

*Wynne M. Ushigome*  
WYNNE M. USHIGOME  
Deputy County Engineer

DLNR KULU RECORD  
MAY 14 '03

AM10:48:14